



RUBBER
manufacturers
association

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March 23, 2001

BY HAND

National Highway Traffic Safety Administration
Docket Management
Room PL-401
400 Seventh Street, S.W.
Washington, D.C. 20590

SUBJECT: NHTSA Docket Number 2001-8677-20

Dear Sir or Madam:

The Rubber Manufacturers Association (RMA) is the national trade association representing the U.S. tire and rubber products manufacturing industry, and its suppliers. RMA members include every major U.S. tire manufacturer and a wide range of industrial rubber product manufacturers. These comments are submitted on behalf of the "non-tire" sector of the RMA, known as the General Products Group. RMA-GPG is pleased to submit the following comments in response to *NHTSA Docket Number 2001-8677; Notice 1; Standards Enforcement and Defect Investigation; Defect and Noncompliance Reports; Record Retention* published in the *Federal Register* on January 22, 2001. Separate comments are being filed on behalf of RMA's tire manufacturers.

RMA-GPG urges NHTSA to carefully examine the alternative types, the usefulness, and the quality of information that may need to be reported. NHTSA should focus on the creation of a useful and non-duplicative system of data. Finally, RMA would urge NHTSA to schedule at least one public meeting on this issue. A public meeting will allow all interested parties to express their views and respond directly to the views expressed by others.

Thank you for the opportunity to respond to this rulemaking.

Sincerely,

Kevin Ott
Vice President
General Products Group

c: Mr. Kenneth N. Weinstein
Mr. George Person
Mr. Taylor Vinson

**Comments of the
Rubber Manufacturers Association
General Products Group
on
Advance Notice of Proposed Rulemaking
Standards Enforcement and Defect Investigation
Defect and Noncompliance Report; Record Retention**

**National Highway Traffic Safety Administration
U.S. Department of Transportation**

**Docket No. NHTSA 2001-8677; Notice 1
March 23, 2001**

**Staff Contact
Ann Wilson, Vice President
Government Affairs
Rubber Manufacturers Association
1400 K Street, NW
Washington, D.C. 20005
(202) 682-4837**

The Rubber Manufacturers Association (RMA) is the national trade association representing the U.S. tire and rubber products manufacturing industry, and its suppliers. RMA members include every major U.S. tire manufacturer and a wide range of industrial rubber product manufacturers. These comments are submitted on behalf of the “non-tire” sector of the RMA, known as the General Products Group. The RMA General Product Group (“RMA-GPG”) represents the manufacturers of a diverse array of finished rubber products, including industrial and automotive hoses and belts, automotive sealing systems, gaskets and oil seals, as well as industrial roll coverings, sheet rubber, roofing, flooring materials and consumer products. As such, the Transportation Recall Enhancement, Accountability, and Documentation Act (“TREAD Act”) affects a significant portion, but not all, of RMA-GPG members. A full roster of the RMA-GPG members is attached, representing some 300 manufacturing facilities in 25 states.

On behalf of the affected rubber product manufacturers, RMA-GPG is pleased to respond to *NHTSA 2001-8677; Notice 1; Standards Enforcement and Defect Investigation; Defect and Noncompliance Reports; Record Retention* published in the *Federal Register* on January 22, 2001. Please be aware that separate comments are being filed on behalf of RMA’s tire manufacturers.

The TREAD Act directed NHTSA to “initiate a rulemaking proceeding to establish early warning reporting requirements for manufacturers of motor vehicles and motor vehicle equipment to enhance the Secretary’s ability to carry out the provisions of

this chapter.” The Act requires the reporting of “such information (that) may assist in the identification of defects related to motor vehicle safety in motor vehicles and motor vehicle equipment in the United States and which concerns (i) data on claims submitted to the manufacturer for serious injuries (including death) and aggregate statistical data on property damage from alleged defects in a motor vehicle or in motor vehicle equipment; and (ii) customer satisfaction campaigns, consumer advisories, recalls or other activity involving the repair or replacement of motor vehicles or items of motor vehicle equipment.”

RMA-GPG member companies urge NHTSA to carefully examine the alternative types, the usefulness, and the quality of information that may need to be reported. The statute requires the reporting of data from motor vehicle equipment manufacturers. RMA-GPG supports this requirement and the members of RMA will comply with both the letter and the intent of the law. However, there is a wide range of data available from many sources. RMA-GPG urges NHTSA to focus on useful, non-duplicative, safety-related data, using the original equipment manufacturers (OEM's) to channel the supplier information to NHTSA. Furthermore, RMA-GPG supports NHTSA's proposal to adopt an incremental approach. Our comments on these matters follow.

I. NHTSA SHOULD FOCUS ONLY ON SPECIFIC SYSTEMS FOR INITIAL REPORTING

RMA-GPG believes that an incremental approach focusing on the specific systems is appropriate.¹ First NHTSA should focus on those systems with a history of safety-related defects, namely: child restraint systems, fuel tanks, air bags and related components, and axle/suspension/brake components. This could be followed by an expansion to parts covered by a Federal motor vehicle safety standard (FMVSS) if appropriate. As NHTSA recognized there are approximately 14,000 individual parts in a passenger car. Although Congress did not limit the automotive parts subject to the reporting requirements, common sense and a desire to create and maintain a workable system should compel NHTSA to move cautiously in the reporting of data.

RMA-GPG recommends that NHTSA initially focus on the systems outlined in the ANPRM published on January 22, 2001 and restated above. Reporting of data on these systems will allow NHTSA to adequately evaluate both the data reporting system and the types of data that are most helpful to the establishment of an early warning reporting system. Without such a limitation NHTSA will be covered in a barrage of data from small, medium, and large manufacturers and will be unable to appropriately track the information available to the agency.

If appropriate, RMA-GPG would then consider supporting an extension of the reporting requirements to all manufacturers of parts and equipment subject to Federal motor vehicle safety standards. Prior to the extension it would be important for the

¹ RMA comments on a proposed early warning system on tires will specify a proposed system for tire manufacturers and address the issues related to that industry.

industry and the agency to review the progress made with the early warning system as it pertains to parts manufacturers and revise it as appropriate. Assuming that the data reporting systems for tires and automobile manufacturers is in place, this will allow NHTSA to specifically focus on automotive parts and equipment manufacturers.

II. NHTSA SHOULD REQUIRE ORIGINAL EQUIPMENT MOTOR VEHICLE MANUFACTURERS TO REPORT DATA FOR ALL ORIGINAL EQUIPMENT USED IN THEIR PRODUCTS.

NHTSA must focus on the reporting of accurate, non-duplicative, safety-related information. In order to achieve this goal in the area of motor vehicle parts (non-tire) manufacturing, NHTSA should require original equipment motor vehicle manufacturers to report data (foreign and domestic) for all non-tire original equipment used in their products. At the initial stage, this reporting would be limited to the systems outlined above.

RMA-GPG represents only a small portion of the manufacturers involved in the assembly of a motor vehicle. The motor vehicle manufacturer has data from consumers, motor vehicle dealers, and their own systems that track the performance of individual parts. Most importantly, they have the technical expertise to analyze automotive systems and provide the appropriate data to NHTSA. It is unlikely that a specific parts manufacturer would be able to know how their part was performing in a fuel or brake system without input from the motor vehicle manufacturer. If there were a failure, the motor vehicle manufacturer would be in the best position to report this data to NHTSA. In the case of foreign data, the parts manufacturers do not have access to the data at all and will be unable to provide it to NHTSA. This must be the responsibility of the original equipment manufacturers.

Focusing on the motor vehicle manufacturers will assure NHTSA that duplicative and incomplete information is not reported. Furthermore, the motor vehicle manufacturer can report the data in the most timely and complete fashion. NHTSA and the motor vehicle manufacturer can follow-up for any patterns that develop that may cause concern.

III. NHTSA'S REPORTING SYSTEM FOR REPLACEMENT PARTS MUST FOCUS ON FATALITIES, SERIOUS INJURIES, AND LAWSUITS

Requiring the motor vehicle manufacturers to report original equipment data will generate a great deal of information. RMA-GPG believes that this data should be the focus of NHTSA's early warning system. Lawsuits, fatalities, and serious injuries are extraordinarily rare in this industry. For instance, one member of RMA-GPG and a major after-market supplier reports that there have been no lawsuits or fatalities involving its products in its 11-year history. This type of history holds true for the industry.

However, RMA-GPG recognizes the importance placed on the reporting of fatalities, lawsuits, and serious injuries. RMA-GPG would consider supporting a system

that required replacement part manufacturers to report fatalities alleged or proven to be caused by a possible defect in such manufacturer's product on a monthly basis. This reporting would track the letter and the intent of the TREAD Act. Such fatalities would be reportable after the manufacturer receives actual notice of the fatality. RMA-GPG would also consider supporting the reporting of lawsuits and serious injuries alleged or proven to be caused by a possible defect in such part manufactured by the company. These reports would be limited to those not reported by the original equipment motor vehicle manufacturer.

In order to report fatalities, lawsuits, or serious injuries a claim must be received by the manufacturer. For this purpose, a "claim must be defined as a written demand actually received by the manufacturer." In addition, since a claim may consist of mere allegations and unsubstantiated information, the early warning reporting regulations should expressly provide that a manufacturer's reporting of such information does not constitute an admission of any defect, liability or fault, or a concession that the claim is legitimate.

Serious injury must also be carefully defined. RMA-GPG finds the proposed use of the Abbreviated Injury Scale ("AIS") to be cumbersome and unworkable. The TREAD Act incorporates, albeit in the criminal penalties section, the definition of "serious bodily injury" contained in 18 U.S.C. §1365(g)(3): "bodily injury which involves (A) a substantial risk of death; (B) extreme physical pain; (C) protracted and obvious disfigurement; or (D) protracted loss or impairment of the function of a bodily member, organ or mental faculty." RMA-GPG believes that this definition is sufficient for purposes of the early warning reporting system and is supported through its use in other provisions of the TREAD Act.

RMA-GPG believes that it is premature to require the reporting of property damage claims or warranty and adjustment data for replacement or after-market parts manufacturers. Because of the relatively low rate of failure and the inability for the parts manufacturer to report the data with any technical "real world" context, RMA-GPG believes this data will be irrelevant. NHTSA will have access to data from the motor vehicle manufacturers and data regarding fatalities, lawsuits, and serious injuries in both the original equipment and after-market context. If specific situations arise, NHTSA should make use of its current investigative authority to pursue additional information from specific manufacturers.

IV. NHTSA SHOULD FOCUS ON CREATING AN EARLY WARNING SYSTEM AND THE INFORMATION THAT WILL BEST ACHIEVE THIS PURPOSE.

RMA-GPG strongly believes that the reporting of the data outlined above will create a workable early warning system. RMA-GPG urges NHTSA to not throw its net so wide as to obscure relevant safety-related data with unnecessary or redundant reports. RMA-GPG would strongly oppose the reporting of internal investigations, field reports,

and design changes as unnecessary for the purpose outlined by Congress, and hereby incorporates by reference the arguments made with respect to these issues in RMA's tire industry comments. Furthermore, there is no need to have a password into manufacturers data systems. These proposals lose track of the purpose of the data: to create an early warning system. The requirement to provide any information beyond that outlined above will prove burdensome for the industry. NHTSA continues to have the authority to follow-up any trends in the early warning reports that might need further clarification.

RMA-GPG appreciates the opportunity to submit these comments and will be happy to work with NHTSA in developing a manageable and effective early warning reporting system, as required by the TREAD Act.

Questions concerning these comments should be directed to Ann Wilson, RMA Vice President for Government Affairs, at (202) 682-4837.

RUBBER MANUFACTURERS ASSOCIATION

General Products Group

Acadia Elastomers Corporation
Advanced Elastomer Systems, LP
Alpha Coatings, Inc.
Alpha Technologies
American Synthetic Rubber Corporation
Ameripol Synpol Corporation
Ames Rubber Corporation
Ammeraal Beltech, Inc.
Ashtabula Rubber Company
Associated Rubber Company
Associated Rubber, Inc.
Avon Automotive, N.A.
Bandag, Inc.
Bando Manufacturing of America, Inc.
Bayer Corporation
Boston Weatherhead, Div. of Dana Corp.
BRC Rubber Group, Inc.
Bridgestone Aircraft Tire (USA), Inc.
Bridgestone APM Company
Buckhorn Rubber Products, Inc.
Buffalo Weaving & Belting Company
Busak & Shamban
Cabot Corporation
Caterpillar Inc. – Chemical Products
Chardon Rubber Company
Chicago Rawhide
Chicago-Allis Manufacturing Corporation
Continental Carbon Company
Cooper-Standard Automotive
Cupples Rubber Company
Custom Rubber Corporation
Datwyler Rubber & Plastics, Inc.
Dawson Manufacturing Company
DSM Copolymer
DTR Industries, Inc.
DuPont Dow Elastomers L.L.C.
Dyneon
Eagle Elastomer Inc.
ExxonMobil Chemical Company
Federal-Mogul Corporation, Sealing Systems Group
Firestone Building Products

Firestone Industrial Products Company
Flexsys America L.P.
Forsheda Engineered Seals
Freudenberg-NOK, General Partnership
Fulflex, Inc.
Georgia Duck & Cordage Mill
Goldsmith & Eggleton, Inc.
Goodyear Chemical
Goshen Rubber Companies, Inc.
Grand River Rubber & Plastics Co.
Habasit ABT, Inc.
Harwick Standard Distribution Corporation
HBD Industries, Inc.
Honeywell
IMCO, Inc.
INDSPEC Chemical Corporation
Johnson Rubber Company, Division of Duramax, Inc.
Kismet Products Inc.
Longwood Engineered Products, Inc.
Lord Corp. – Chemical Products Division
M C Products Corporation
Mark IV Industries, Inc.
MBL (USA) Corporation
Mitchell Inc.
Molded Dimensions, Inc.
Neff-Perkins Company
Nichirin Flex U.S.A., Inc.
North Shore Laboratories
Oliver Rubber Company
Ottawa Rubber Company
ParaTec Elastomers LLC
Patch Rubber Company
Paul E. Hawkinson Company
PAULSTRA CRC
Pawling Corporation
PolyOne
Precision Associates, Inc.
Protective Coatings, Inc.
R.T. Vanderbilt Company
Rema Tip Top North America, Inc.
Rice-Chadwick Rubber Company
Rubber Rolls, Inc.
SAS Rubber Company
Scandura, Inc.
Seals Eastern, Inc.
Semperit Industrial Products, Inc.

Southland Technologies, Inc.
Specification Rubber Products, Inc.
Superior Tire & Rubber Corporation
Svedala Industries Inc., Svedala Trellex
Syntex Rubber Corporation
T & M Rubber, Inc.
TBMC, Inc.
TECH International
Tech Pro Inc.
Teknor Apex Company
Tenneco Automotive
The C.P. Hall Company
The Gates Rubber Company
The Goodyear Tire & Rubber Company
Titan Industries
Trelleborg YSH, Inc.
Trostel, Ltd.
Truflex/Pang Rubber Products Company
Union Carbide Corporation
Uniroyal Chemical Company, Inc.
Vail Rubber Works, Inc.
VIP Rubber Company, Inc.
Wabtec Rubber Products
West American Rubber Co., Inc.
Zeon Chemicals L.P.